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a front binding member movably coupled to said front portion of said base member between a release position and a latched position.

53. (New) A snowboard binding according to claim 11, wherein said first latch member is arranged to move downwardly toward said base member and laterally outwardly upon application of said force on said first latch member in said direction substantially towards said base member. - -

#### REMARKS

In the April 25, 2002 Office Action, the drawings and specification were objected to, and claims 1-48 stand rejected in view of prior art. Additionally, claims were provisionally rejected under the judicially created doctrine of obviousness-type double patenting. No other objections or rejections were made in the Office Action.

#### *Status of Claims and Amendments*

In response, Applicant has amended the specification and independent claims 1, 18 and 41 to distinguish them from the prior art. Applicant has also amended claims 2 and 11 to place these claims in independent form, and further clarified these claims to distinguish them from the prior art. Additionally, Applicant has amended claims 4, 12 and 28 to make minor clarifications in these claims, in view of the amendments to their respective independent claims or to correct an error. Finally, Applicant has added new claims 49-53. Thus, claims 1-53 are pending, with claims 1, 2, 11, 18, 41 and 49-51 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of the above amendments and the following comments.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached pages that begin with the caption "**VERSION WITH MARKINGS TO SHOW CHANGES MADE**" (Pages 17-20) show the changes made to the specification and claims by the current amendment.

#### *Drawings*

In paragraphs 1 and 2 of the Office Action, the drawings were objected to as failing to comply with 37 CFR §1.84(p)(5) because they do not include reference numeral 30b

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(described on page 10 of the specification), and a Submission of Proposed Drawing Corrections is required.

In response, Applicant has filed herewith a Request for Approval of Proposed Drawing Corrections. However, Applicant believes reference numeral 30b was already included in Figures 9-11. Thus, Applicant has merely replaced reference numeral "30b" with reference numeral --30b-- in Figures 9-11 in the Request for Approval of Proposed Drawing Corrections. Applicant has also made a minor correction to the lead lines for reference numeral 29b in Figure 12, and changed one of the reference numerals "66" to --67-- in Figure 13 to correspond with the amendment to the specification, discussed below. Applicant believes that the drawings now comply with 37 CFR §1.84(p)(5) and 37 CFR §1.83(a). Applicant respectfully requests withdrawal of this objection.

#### ***Specification***

In paragraph 3 of the Office Action, the specification was objected to because reference numeral 66 is used to identify both the "control section" and the "C-clip" on page 13. In response, Applicant has amended the specification to change the "C-clip 66" to the --C-clip 67--. Also, Applicant has submitted herewith a Request for Approval of Proposed Drawing Corrections (correcting Figure 13 to correspond to this change to the specification) to overcome this objection.

Applicant believes that the specification is now correct and complies with 37 CFR §1.71 and 37 CFR §1.75(d)(1). Withdrawal of this objection is respectfully requested.

#### ***Rejections - 35 U.S.C. § 102***

In paragraphs 4-5 (pages 2-4) of the Office Action, claims 1, 2, 4-10, 16 and 41-47 stand rejected under 35 U.S.C. §102(e)(2) as being anticipated by U.S. Patent No. 6,123,354 to Laughlin et al. (hereinafter "the Laughlin '354 patent"). In response, Applicant has amended independent claims 1, 2 and 41 to clearly define the present invention over the prior art of record.

In particular, independent claim 1, as now amended, requires a first latch member arranged to move downwardly toward said base member and laterally outwardly upon application of a force on the first latch member in a direction substantially towards the base member by the snowboard boot, and to move upwardly away from the base member and laterally inwardly upon removal of the force. Claim 1, as now amended, also requires a rear

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binding member that extends inwardly into a snowboard boot receiving area above the base plate and having a first latch member to selectively engage a heel portion of the snowboard boot.

As mentioned above, claim 2 has been amended to place it in independent form. Moreover, independent claim 2, as now amended, requires first and second latch members arranged to move downwardly toward the base member and laterally outwardly relative to each other upon application of a force on the first and second latch members in the direction substantially towards said base member.

Independent claim 41, as now amended, requires longitudinally extending first and second notches with first and second open rear ends. The open rear ends have heights and depths substantially equal to heights and depths of the notches.

Clearly, these unique structures of independent claims 1, 2 and 41 are *not* disclosed or suggested by the Laughlin '354 patent or any other prior art of record. In fact, in the Laughlin '354 patent, the latches *move downwardly and inwardly* upon application of a force in a direction toward the base of the binding, not *downwardly and outwardly*, as required by independent claims 1 and 2, as now amended. The latches of the Laughlin '354 patent are then maintained in the moved position until the release levers are actuated. When the release levers are actuated, the latches then move upwardly and outwardly. Thus, the Laughlin '354 patent clearly fails to disclose all of the limitations of independent claims 1 and 2.

Regarding claim 41, the Laughlin '354 patent discloses a boot with openings configured to receive the latches. The *openings are closed at both ends*, not *longitudinal openings with open rear ends*. Thus, the Laughlin '354 patent clearly fails to disclose all of the limitations of independent claim 41. It is well settled under U.S. patent law that for a reference to anticipate a claim, the reference must disclose each and every element of the claim within the reference. Therefore, Applicant respectfully submits that claims 1, 2 and 41, as now amended, are not anticipated by the prior art of record, as suggested in the Office Action. Withdrawal of this rejection is respectfully requested.

Moreover, Applicant believes that the dependent claims 4-10, 16 and 42-46 are also allowable over the prior art of record in that they depend from independent claims 2 and 41, and therefore are allowable for the reasons stated above. Also, the dependent claims 4-10, 16 and 42-46 are further allowable because they include additional limitations. Thus, Applicant

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believes that since the prior art of record does not anticipate the independent claims 2 or 41, neither does the prior art anticipate their respective dependent claims.

Applicant respectfully requests withdrawal of this rejection. Applicant notes that it appears that including claim 47 in this rejection was an inadvertent error since the boot in the Laughlin '354 patent does not appear to have a front catch. It also appears that claim 47 stands rejected under 35 U.S.C. §103(a), as discussed below.

***Rejections - 35 U.S.C. § 103***

In paragraphs 6-12 (pages 5-11) of the Office Action, claims 3, 11-15, 17-40, 47 and 48 stand rejected under 35 U.S.C. §103(a) as being unpatentable over a variety of combinations of references. In particular, claims 14, 37 and 38 stand rejected as being unpatentable over the Laughlin '354 patent in view of U.S. Patent No. 6,213,493 to Korman (hereinafter "the Korman patent") as applied to the claims above, and further in view of U.S. Patent No. 5,544,909 to Laughlin et al. (hereinafter the Laughlin '909 patent"). Claim 15 stands rejected as being unpatentable over the Laughlin '354 patent in view of the Laughlin '909 patent. Claim 17 stands rejected as being unpatentable over the Laughlin '354 patent in view of French Patent Publication No. 2767486 to Couderc (hereinafter "the Couderc publication"). Claims 3, 11-13, 18-36, 39 and apparently claim 47 stand rejected as being unpatentable over the Laughlin '354 patent in view of the Korman patent. Claim 40 stands rejected as being unpatentable over the Laughlin '354 patent in view of the Korman patent as applied to claim 39 and further in view of the Couderc publication. Finally, claim 48 stands rejected as being unpatentable over the Laughlin '354 patent in view of the Korman patent as applied to claim 47 and further in view of U.S. Patent No. 5,915,720 to Turner et al. (hereinafter "the Turner patent").

In other words, the Laughlin '354 patent is the primary reference used in rejecting these claims, while the remaining references are used in various combinations with the Laughlin '354 patent in rejecting these claims. In response, Applicant has amended claims 1, 2, 11, 18 and 41 to clearly define the present invention over the prior art of record.

First, regarding independent claims 1, 2 and 41, Applicant believes the Laughlin '354 patent fails to disclose or suggest the unique arrangements of these independent claims, as discussed above. The other references cited in the Office Action suffer from similar deficiencies. In particular, the other references cited in the Office Action fail to disclose or

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suggest latch members arranged to move downwardly toward the base member and laterally outwardly relative to each other upon application of a force on the latch members in the direction substantially towards the base member. The other references also fail to disclose or suggest a boot with longitudinally extending first and second notches with first and second open rear ends having heights and depths substantially equal to heights and depths of the notches. Thus, even if these references were combined as suggested in the Office Action it would not result in the claimed invention. Moreover, there is no suggestion or expectation of success for combining the patents and modifying such a combination to create the Applicants' unique arrangement of independent claims 1, 2 and 41. Accordingly, withdrawal of the rejections of claims 3, 17, 47 and 48 are respectfully requested.

Second, attention will now be directed to claim 11. As mentioned above, claim 11 has been amended to place it in independent form. Moreover, independent claim 11, as now amended, requires a front binding member that is arranged to move in a forward direction from the latched position to the release position relative to the longitudinal axis of the base member. Clearly this unique arrangement is not disclosed or suggested by the various combinations of references cited in the Office Action. More specifically, the Laughlin '354 patent does not disclose a front binding member whatsoever. The Office Action relies on the Korman patent to disclose a front binding member and asserts that it would have been obvious to one of ordinary skill in the art to combine the front binding arrangement of the Korman patent with the binding system of the Laughlin '354 patent. However, the Korman patent clearly fails to disclose or suggest a front binding member *arranged to move in a forward direction from the latched position to the release position* relative to the longitudinal axis of the base member, as now required by independent claim 11. Rather, the Korman patent discloses a member that, at best, moves in a rearward direction during the engagement process to a release position and then moves in a forward direction to a latched position. The so-called front binding member then remains in that latched position, even during disengagement of the boot from the binding. Thus, even if these references were combined as suggested in the Office Action it would not result in the claimed invention. Moreover, there is no suggestion or expectation of success for combining the patents and modifying such a combination to create the Applicants' unique arrangement of independent claim 11. Accordingly, withdrawal of the rejection of claim 11 is respectfully requested.

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Moreover, withdrawal of the rejections of claims 12-15 are also respectfully requested since these claims depend from independent claim 11, and thus, further limit independent claim 11.

Referring now to independent claim 18, Applicant has amended claim 18 in a manner similar to claim 2 (e.g. requiring first and second latch members arranged to move downwardly toward the base member and laterally outwardly relative to each other upon application of a force on the first and second latch members in the direction substantially towards said base member). Applicant believes the Laughlin '354 patent fails to disclose or suggest this unique arrangement, as discussed above. The other references cited in the Office Action suffer from similar deficiencies. In particular, the other references cited in the Office Action fail to disclose or suggest latch members arranged to move downwardly toward the base member and laterally outwardly relative to each other upon application of a force on the latch members in the direction substantially towards the base member. Thus, even if these references were combined as suggested in the Office Action it would not result in the claimed invention. Moreover, there is no suggestion or expectation of success for combining the patents and modifying such a combination to create the Applicants' unique arrangement of independent claim 18. Accordingly, withdrawal of the rejection of claim 18 is respectfully requested. Moreover, withdrawal of the rejections of claims 19-40 are also respectfully requested since these claims depend from independent claim 18, and thus, further limit independent claim 18.

Clearly the unique arrangements of independent claims 1, 2, 11, 18 and 41 are *not* disclosed or suggested by any of the prior art of record either alone or in combination, as discussed above. Moreover, there is no suggestion or motivation to modify the references cited in the Office Action or the various combinations thereof to result in the unique arrangements of independent claims 1, 2, 11, 18 and 41. It is well settled in U.S. patent law that the mere fact that the prior art can be modified does *not* make the modification obvious, unless the prior art *suggests* the desirability of the modification. Accordingly, the prior art of record lacks any suggestion or expectation of success for combining the patents to create the Applicants' unique arrangements of independent claims 1, 2, 11, 18 and 41. Accordingly, withdrawal of the rejections of claims 3, 11-15, 17-40, 47 and 48 are respectfully requested.

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### ***Double Patenting***

In paragraph 13 (pages 11-13), claims are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of several co-pending application numbers. The Office Action indicates that although the conflicting claims are not identical, they are not patentably distinct from each other. Finally, the Office Action indicates that Applicant and/or Assignee is advised to draft the claims in such a way as to maintain a clear line of patentable distinction between the instant claims and the claims of the other applications. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Applicant is aware of the possibility of an actual double patenting rejection in this application or the other co-pending applications identified in the Office Action. However, the instant application is the first application filed of all of the applications identified in the Office Action. Thus, the instant application will most likely issue prior to the other applications identified in the Office Action. Applicant notes that if a provisional double patenting rejection is the only rejection remaining in an application, the provisional double patenting rejection should then be withdrawn to allow that application to issue as a patent. (See MPEP 804, pp. 800-19). As discussed above, Applicant believes that the rejections set forth in this Office Action have now been overcome. Thus, Applicant believes the provisional double patenting rejection set forth in this Office Action should be withdrawn, and this application should be allowed. Applicant acknowledges that if for some reason one of the later filed applications, which were identified in the Office Action, issues as a patent prior to the instant application being patented, that the provisional double patenting rejection in the instant application will be changed to an actual double patenting rejection.

### ***Prior Art Citation***

In the Office Action, additional prior art references were made of record. Applicant believes that these references do not render the claimed invention obvious.

### ***New Claims***

Applicant has added new claims 49-53 by the current Amendment. New claims 49-51 are new independent claims. New independent claim 49 is directed to a binding system similar to original independent claim 18, but requires a snowboard boot having first and second rear catches with parallel first and second notches, respectively. Independent claim

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49 further requires first and second latch members being arranged to initially move laterally apart relative to each other to guide positions upon application of a force in a direction substantially towards the base member by the snowboard boot and to subsequently move laterally towards each other to locked positions upon removal of the force such that the first and second latch members engage one of the first notches and one of the second notches to selectively couple the snowboard boot to the binding at one of two predetermined heights relative to the snowboard binding. New independent claim 50 is also directed to a snowboard binding system. New claim 50 basically corresponds to original claim independent claim 18 but requires first and second latch members and first and second rear catches configured to allow forward longitudinal movement of the snowboard boot relative to the snowboard binding, and the front binding member and the front catch being configured to limit longitudinal movement of the front catch in a forward direction along the longitudinal axis when the front binding member is in the latched position holding the front catch. New independent claim 51 is directed to a snowboard boot. New claim 51 basically corresponds to original claim 41 but also requires pairs of longitudinally extending substantially parallel first and second notches, the notches being arranged at different vertical heights being at least partially aligned with each other as viewed in a vertical direction. Applicant does not believe the unique arrangements of these independent claims are disclosed or suggested by the prior art cited in the Office Action.

New claim 52 depends from independent claim 1, and thus is believed to be allowable for the reasons discussed above with respect to independent claim 1. New claim 52 corresponds to original claim 11, which has been rewritten in independent form, and depends from amended independent claim 1. New claim 53 depends from independent claim 11, as now amended. New claim 53 is believed to be allowable for the reason discussed above with respect to independent claim 11. However, claim 53 also requires a first latch member that is arranged to move downwardly towards the base member and laterally outwardly upon application of the force on the first latch member in the direction substantially towards the base member. Applicant believes this feature combined with the other features of independent claim 11 is not disclosed or suggested by the references cited in the Office Action.



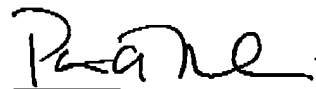
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In view of the foregoing amendment and comments, Applicant respectfully asserts that claims 1-53 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested. If there are any questions regarding this Amendment, please feel free to contact the undersigned.

Respectfully submitted,



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***VERSION WITH MARKINGS TO SHOW CHANGES MADE***

**IN THE SPECIFICATION:**

The paragraph beginning at page 13, line 1 has been amended as follows:

The release lever 64 basically includes a pivot pin section 65 and a handle or control section 66. In other words, a part of the release lever 64 (pivot pin section 65) forms the front pivot pin of the front binding member 42. Thus, the release lever 64 is integrally formed as a one-piece, unitary member. The pivot pin section 65 preferably includes an annular recess 65a formed at a free end thereof. A C-clip 67 [66] (or any other suitable retaining member) is received in the annular recess 65a to secure the release lever 64 and the front binding member 42 to the binding plate 60, with the spring 62 arranged therebetween.

**IN THE CLAIMS:**

Claim 1 has been amended as follows:

1. (Amended) A snowboard binding comprising:  
a base member having a base plate with a front portion, a rear portion and a longitudinal axis extending between said front and rear portions; and  
a rear binding member coupled to a first lateral side of said rear portion of said base [member] plate to extend inwardly into a snowboard boot receiving area above said base plate, said rear binding member including a first latch member movable relative to said base member, said first latch member being pivotally supported about a first pivot axis substantially parallel to said longitudinal axis to selectively engage a heel portion of the snowboard boot,  
said first latch member being arranged to move downwardly toward said base member and laterally outwardly upon application of a force on said first latch member in a direction substantially towards said base member by the snowboard boot, and to move upwardly away from said base member and laterally inwardly upon removal of said force.

Claim 2 has been amended as follows:

2. (Amended) A snowboard binding [according to claim 1, wherein] comprising:

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a base member having a front portion, a rear portion and a longitudinal axis extending between said front and rear portions;

a first rear binding member coupled to a first lateral side of said rear portion of said base member, said first rear binding member including a first latch member movable relative to said base member, said first latch member being pivotally supported about a first pivot axis substantially parallel to said longitudinal axis; and

[said rear binding member is a first rear binding member and said snowboard binding further comprises:]

a second rear binding member coupled to a second lateral side of said rear portion of said base member, said second rear binding member including a second latch member movable relative to said base member, said second latch member being pivotally supported about a second pivot axis substantially parallel to said longitudinal axis,

said first and second latch members being arranged to move downwardly toward said base member and laterally outwardly relative to each other upon application of a force on said first and second latch members in the direction substantially towards said base member.

Claim 4 has been amended as follows:

4. (Amended) A snowboard binding according to claim 2, wherein  
said first and second latch members are arranged to move laterally apart relative to each other from first and second initial positions to first and second guide positions upon application of said [a] force on said first and second latch members in said direction substantially towards said base member.

Claim 11 has been amended as follows:

11. (Amended) A snowboard binding [according to claim 1, further] comprising:  
a base member having a front portion, a rear portion and a longitudinal axis extending between said front and rear portions;

a front binding member movably coupled to said front portion of said base member between a release position and a latched position, said front binding member being arranged to move in a forward direction from said latched position to said release position relative to said longitudinal axis; and

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a first rear binding member coupled to a first lateral side of said rear portion of said base member, said first rear binding member including a first latch member movable relative to said base member, said first latch member being pivotally supported about a first pivot axis substantially parallel to said longitudinal axis,

said first latch member being arranged to move laterally upon application of a force in a direction substantially towards said base member.

Claim 12 has been amended as follows:

12. (Amended) A snowboard binding according to claim 11, wherein said front binding member includes a front pawl urged in a rear direction to said latched position by a front biasing member that applies an urging force on said front pawl, and a release lever coupled to said front pawl to move said front pawl from said latched position to said release position upon application of a force on said release lever that is greater than said urging force of said front biasing member.

Claim 18 has been amended as follows:

18. (Amended) A snowboard binding system, comprising:  
a snowboard boot having a sole portion, a front catch portion located at a front part of said sole portion, a first rear catch portion located at a first lateral side of said sole portion and a second rear catch portion located at a second lateral side of said sole portion; and  
a snowboard binding configured to be releasable coupled to said snowboard boot, said snowboard binding including  
a base member having a front portion, a rear portion and a longitudinal axis extending between said front and rear portions;  
a front binding member movably coupled to said front portion of said base member between a release position and a latched position to selectively hold said front catch portion;  
a first rear binding member coupled to a first lateral side of said rear portion of said base member, said first rear binding member including a first latch member movable relative to said base member to selectively hold said first rear catch portion of said snowboard boot, said first latch member being

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arranged to move upon application of a force in a direction substantially towards said base member by said snowboard boot]; and  
a second rear binding member coupled to a second lateral side of said rear portion of said base member, said second rear binding member including a second latch member movable relative to said base member to selectively hold said second rear catch portion of said snowboard boot,  
said first and second latch members being arranged to move downwardly toward said base member and laterally apart relative to each other upon application of a force on said first and second latch members in a [said] direction substantially towards said base member by said snowboard boot.

Claim 28 has been amended as follows:

28. (Amended) A snowboard binding system according to claim 27 [18], wherein said base member includes a mounting portion and a pair of side attachment portions extending perpendicularly from said mounting portion, said side attachment portions having said first and second latch members coupled thereto, respectively.

Claim 41 has been amended as follows:

41. (Amended) A snowboard boot, comprising:  
an upper portion; and  
a sole portion coupled to said upper portion, said sole portion having a first rear catch portion located at a first lateral side of said sole portion and a second rear catch portion located at a second lateral side of said sole portion,  
said first rear catch portion including at least one longitudinally extending first notch with a first open rear end and said second rear catch portion including at least one longitudinally extending second notch with a second open rear end,  
said first open rear end having a height and a depth substantially equal to a height and depth of said first notch, and said second open rear end having a height and a depth substantially equal to a height and depth of said second notch.

New claims 49-53 have been added.